HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE G.V. SEETHAPATHY

W.A. No.331 of 2006

Between:

G. Santosh Kumar. … Petitioner

and

The State Bank of India, represented

by its Authorised Officer, Main Branch

Hyderabad-1. … Respondents.

:JUDGMENT:

Counsel for the appellantr : Sri I. Rama Rao.

Counsel for the respondent : Sri B. Raghavulu, for

Sri K.B. Ramanna Dora.

13th June, 2006

Per G.S. Singhvi, CJ

This appeal is directed against order dated 13.3.2006 passed by the learned Single Judge in Writ Petition No.2293 of 2006 whereby he declined to nullify the proceedings initiated by the respondent-bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') by observing that the petitioner can avail alternative remedy under Section 17 of the Act.

On 27.3.2006, the Court, after taking cognizance of the statement made by Sri V. Brahmaiah Chowdary, advocate representing the appellant that his client is ready and willing to pay the entire amount outstanding against him, passed the following order:

> " **W.A.No.331 of 2006**: Heard the learned counsel for the appellant and perused the record.
>
> Sri V. Brahmaiah Chowdary, learned counsel for the appellant says that his client is ready and willing to pay the entire amount outstanding

against him provided that the bank fixes a reasonable time schedule.

In view of the statement made by the learned counsel, we deem it proper to entertain the appeal and direct that notice be issued to the respondent for appearance on 17.4.2006 to show cause as to why the appeal may not be admitted and finally disposed of by directing the bank to accept the amount, which the appellant is prepared to pay.

WAMP.No.703 of 2006: Notice of the application to the respondent for 17.4.2006. In the meanwhile, the petitioner's property shall not be sold or alienated by the bank, in any manner whatsoever. This would be subject to the condition that within a period of 15 days from today, the appellant deposits a sum of Rs.1,00,000/- with the bank.

If the appellant fails to pay the amount in terms of the aforementioned direction, the stay order passed today shall stand vacated and the appeal may be dismissed on the next date of hearing."

Shri I. Rama Rao, counsel appearing for the appellant submits that his client has deposited Rs.1,00,000/- in terms of interim order passed by the Court and is ready and willing to pay the balance amount. Sri Rama Rao further submits that the Court may direct the bank to relieve the appellant of all his obligations under 2002 Act on his depositing the entire balance amount.

Sri B. Raghavulu, learned counsel for the bank says that if the appellant deposits the balance amount with interest, then, the proceedings initiated under Section 13 of the Act will be dropped.

In view of the statements made by the learned counsel for the parties, the appeal is disposed of in the following terms:

1. The order passed by the learned Single Judge shall stand set aside.

2. Within a period of one week from today, the bank should inform the appellant the quantum of interest payable by him on the amount which remained in balance after deposit of Rs.1,00,000/- in terms of order dated 27.3.2006 passed by this Court.

3. Within next eight weeks, the appellant shall deposit the balance amount together with interest.

4. Within two weeks of the deposit of balance amount by the appellant,

the bank shall withdraw the proceedings initiated under Section 2002 Act and release the documents, if any, furnished by the appellant at the time of sanction of loan.

G.S. SINGHVI, CJ

13th June, 2006 **G.V. SEETHAPATHY, J**

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